

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FAIRFIELD SUISUN UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012030917

ORDER DENYING REQUEST FOR
CONTINUANCE OF HEARING
DATES AND GRANTING OF
CONTINUANCE OF PREHEARING
CONFERENCE

On September 19, 2012, the parties filed a joint request with the Office of Administrative Hearings (OAH) to continue the dates in this matter based upon the parties' pending settlement that needed to be reduced to writing.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied in part. The parties did not establish good cause to continue the hearing dates without a signed written settlement agreement, or an adequate reason why a delay exists in the parties executing such a written settlement agreement. However, the parties established good cause for a brief continuance of the PHC to permit the parties to finalize the settlement agreement while the hearing dates remain as calendared.

Prehearing Conference: September 26, 2012, at 1:30 PM

IT IS SO ORDERED.

Dated: September 19, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings